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LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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04/22/2009 05:14 PM

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Senator Baker moved the following:

1 **Senate Amendment to Amendment (175584) (with title**
2 **amendment)**

3
4 Between lines 1361 and 1362
5 insert:

6 Section 6. Section 627.3512, Florida Statutes, is amended
7 to read:

8 627.3512 Recoupment of residual market deficit
9 assessments.—

10 (1) The Legislature finds and declares that all assessments
11 paid by an insurer or insurer group as a result of a levy by any
12 residual market entity, including regular assessments levied on



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13 insurers by Citizens Property Insurance Corporation and any
14 other assessments levied on insurers by an insurance risk
15 apportionment plan or assigned risk plan under s. 627.311 or s.
16 627.351 constitute advances of funds from the insurer to the
17 residual market entity, and that the insurer is entitled to
18 fully recoup such advances. An insurer or insurer group may
19 recoup any assessments that have been paid during or after 1995
20 by the insurer or insurer group to defray deficits of an
21 insurance risk apportionment plan or assigned risk plan under
22 ss. 627.311 and 627.351, net of any earnings returned to the
23 insurer or insurer group by the association or plan for any year
24 after 1993. A limited apportionment company as defined in s.
25 627.351(6)(c) may recoup any regular assessment that has been
26 levied by, or paid to, Citizens Property Insurance Corporation.

27 (2) The recoupment shall be made by applying a separate
28 recoupment ~~assessment~~ factor on policies of the same line or
29 type as were considered by the residual markets in determining
30 the assessment liability of the insurer or insurer group. An
31 insurer or insurer group shall calculate a separate assessment
32 factor for personal lines and commercial lines. The separate
33 assessment factor shall provide for full recoupment of the
34 assessments over a period of 1 year, unless the insurer or
35 insurer group, at its option, elects to recoup the assessments
36 over a longer period. The assessment factor expires upon
37 collection of the full amount allowed to be recouped. Amounts
38 recouped under this section are not subject to premium taxes,
39 fees, or commissions.

40 (3) ~~(2)~~ The recoupment ~~assessment~~ factor may ~~must~~ not be
41 more than 3 percentage points above the ratio of the deficit



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42 assessment to the Florida direct written premium for policies
43 for the lines or types of business as to which the assessment
44 was calculated, as written in the year the deficit assessment
45 was paid. If an insurer or insurer group does not ~~fails to~~
46 collect the full amount of the deficit assessment during one 12-
47 month period, the insurer or insurer group may apply
48 recalculated recoupment factors to policies issued or renewed
49 during one or more succeeding 12-month periods ~~must carry~~
50 ~~forward the amount of the deficit and adjust the deficit~~
51 ~~assessment to be recouped in a subsequent year by that amount.~~

52 (4) ~~(3)~~ The insurer or insurer group shall file with the
53 office a statement for informational purposes only setting forth
54 the amount of the recoupment ~~assessment~~ factor and an
55 explanation of how the factor will be applied, at least 15 days
56 prior to the factor being applied to any policies. The
57 informational statement shall include documentation of the
58 assessment paid by the insurer or insurer group and the
59 arithmetic calculations supporting the recoupment ~~assessment~~
60 factor. ~~The office shall complete its review within 15 days~~
61 ~~after receipt of the filing and shall limit its review to~~
62 ~~verification of the arithmetic calculations.~~ The insurer or
63 insurer group may use the recoupment ~~assessment~~ factor at any
64 time after the expiration of the 15-day period ~~unless the office~~
65 ~~has notified the insurer or insurer group in writing that the~~
66 ~~arithmetic calculations are incorrect.~~ The recoupment factor
67 shall apply to all policies described in subsection (3) that are
68 issued or renewed by the insurer or insurer group during a 12-
69 month period. If full recoupment requires the insurer or insurer
70 group to apply a recoupment factor over a subsequent 12-month



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71 period, the insurer or insurer group must file a supplemental
72 informational statement pursuant to this subsection.

73 (5) No later than 90 days after the insurer or insurer
74 group has completed the recoupment process, it shall file with
75 the office a final accounting report documenting the recoupment.
76 The report shall provide the amounts of assessments paid by the
77 insurer or insurer group, the amounts and percentages recouped
78 by year from each affected line of business, and the direct
79 written premium subject to recoupment by year.

80 (6)(4) The commission may adopt rules to implement this
81 section.

82
83 ===== T I T L E A M E N D M E N T =====

84 And the title is amended as follows:

85
86 Delete line 1771

87 and insert:

88 corporation; amending s. 627.3512, F.S.; providing
89 legislative findings; providing for the recoupment of
90 residual market assessments paid by insurers or
91 insurer groups; limiting the amount of a recoupment
92 factor; authorizing an insurer to apply recalculated
93 recoupment factors to policies issued or renewed
94 during specified periods under certain circumstances;
95 requiring that insurers or insurer groups file a
96 statement setting forth certain information; providing
97 for the application of recoupment factors to certain
98 policies upon issuance or renewal; requiring that
99 insurers or insurer groups file a supplemental



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100 statement under certain circumstances; requiring that
101 such entities file a final accounting report
102 documenting certain information within a specified
103 period after the completion of the recoupment process;
104 requiring that such report provide certain
105 information; amending s. 627.712, F.S.; providing an